COVID 19 Leading to Increased Employment Rights Queries for Law Firms

When faced with the urgency of a global crisis, it's hard to predict what practice areas will stand out as the most pressing legal issues of the time. But with stay-at-home orders in place and businesses scrambling to stay afloat, employment law has emerged as a widespread legal concern.

Over the last month, law firms have received extensive inquiries about employment law rights and responsibilities in this time of uncertainty. This post will examine the reason behind this trend, including some of the most common concerns and questions being posed by business leaders.

The Right to Work

Many of the inquires made to law firms in the midst of COVID-19 center on the right for an employee to continue, or not continue, working during the pandemic. Employment lawyers may be hearing questions like:

- Can I force employees to come to work?
- What are the potential consequences of disciplining or firing an employee who refuses to show up for work?

Many business leaders have found themselves in situations where employees feel that working is too risky. Businesses depend on workers to handle necessary tasks and keep the business afloat. So when this occurs, employers may want to know what legal ability they have to enforce employee attendance.

Employers also want to know the potential consequences for disciplining or firing employees who refuse to come in and perform their job duties. Employers worry that these actions may subject their businesses to litigation or government sanctions, so they rely on employment law attorneys for guidance.

Government Shutdown Orders

Business leaders want to know whether they are obligated to follow government shutdown guidelines. They may ask such questions as:

- Is my business considered essential?
- Am I required to follow governmental shutdown orders, and what are the potential consequences if I do not?
- How do new government regulations impact my responsibilities as an employer?

Most business leaders have never experienced a government-mandated shutdown, so they are forced to navigate through unchartered territory. These owners rely on employment law attorneys to guide them through the regulations and provide advice that keeps them out of trouble.

Keeping Employees Safe

For businesses that remain open, leaders are left with questions about their duties to promote employee safety. Their inquiries to law firms may include such questions as:

- Can I turn away employees who appear sick while at work?
- What steps must I take within my business to keep employees safe on the job?
- How should I handle high-risk employees?

Business owners have a general duty to protect their employees from hazards within the workplace, but the dangers of this pandemic have added unforeseen risks that many employers are ill-equipped to handle. They

want to ensure that they provide reasonable protections and lessen the threat of infection, but they are also concerned about costs and the continuity of their businesses.

Employers worry that they may be held legally responsible should an employee contract COVID-19 while working within their workplace. Under certain circumstances, an employer may instruct an employee to stay away from the workplace. When this occurs, employers may seek legal guidance to ensure that their actions do not constitute a constructive dismissal from employment.

Sick and Medical Leave

As government officials continuously change employment laws and regulations regarding COVID-19, many employers are left with questions about the provision of sick and medical leave for employees impacted by illness. They want information about the following issues:

- What are the employee's rights regarding paid sick leave?
- What are the employee's rights regarding caring for a sick family member under the Family Medical Leave Act (FMLA)?
- Are there differences in employer responsibilities for salaried and hourly workers?

Employers rely on employment law attorneys to advise them about sick leave requirements. Under some circumstances, employees may be entitled to paid sick leave if they fall sick with COVID-19. However, in situations where paid sick leave is not included in an employment contract or company policy, the employer may not have an obligation to provide paid sick leave at all.

Business leaders also seek guidance about which rules apply to salaried workers and which apply to hourly workers. While hourly workers generally have less leave options and protections, as the government seeks ways to help hourly workers, the rules may change. Employers may seek assistance from employment attorneys to remain compliant.

Business leaders may also contact an employment lawyer if an employee's family member falls ill with COVID-19. They want to know whether they are legally required to offer paid or unpaid leave under the federal Family and Medical Leave Act (FMLA).

Worker's Compensation

Due to the unprecedented nature of the coronavirus outbreak, many employers are unclear about which circumstances may open them up to a workers' compensation claim. Some of the most common questions and concerns being heard by employment attorneys include:

- Are employees who become ill while working eligible for worker's compensation?
- Can employees receive disability benefits for coronavirus illness?

Most state workers' comp laws do not cover ordinary sicknesses like the common cold or flu, so it is questionable whether coronavirus would fall under worker's comp. However, if some aspect of the job makes an employee more susceptible to the disease, like health care workers or flight attendants, the employee's sickness may qualify for worker's compensation. An employment lawyer looks at these variables to provide business leaders with the legally sound advice they need to stay compliant.

Discrimination and Harassment Allegations

Infected employees or even employees suspected to be sick with COVID-19 may face workplace situations that can be perceived as discriminatory or harassing. Employers want to ensure that their actions, or the actions of other employees, do not open them up to allegations of discrimination and harassment. They may ask attorneys such questions as:

- What steps must I take to ensure that a sick employee is not being discriminated against within the workplace

- What responsibility do I have to protect an infected employee from harassment by other employees?

Employers want to implement policies and procedures that prevent employees from being stereotyped or improperly singled out. They also seek assistance from employment law firms to determine whether adequate steps are being taken to protect their workers' personal health-related information.

Employment Law and COVID-19

Employment law has emerged as a hot legal topic in response to COVID-19. As employers and employees seek to navigate these new rules and regulations, they are increasingly turning to employment rights law firms for trusted guidance.

About Erika Winston:

Erika Winston is a freelance writer with a passion for law. Through her business, Personal Touch Edits, she helps legal professionals deliver effective written messages. Erika is a regular contributor to TimeSolv and a variety of other publications.